

# EXHIBIT 1

1                   IN THE UNITED STATES DISTRICT COURT  
2                   NORTHERN DISTRICT OF ILLINOIS  
3                   EASTERN DIVISION

3	CHRISTOPHER HOWE,	)	
	individually and on behalf	)	
4	of all others similarly	)	
	situated,	)	
5		)	Case No.
	Plaintiff,	)	1:19-cv-01374
6		)	Hon. Andrea R.
	vs.	)	Wood
7		)	Magistrate
	SPEEDWAY LLC and MARATHON	)	Judge Hon.
8	PETROLEUM COMPANY,	)	Susan E. Cox
		)	
9	Defendants.	)	

10                   The videotaped deposition of CHRISTOPHER  
11    HOWE, called by the Defendant for examination,  
12    pursuant to Notice, and pursuant to the Rules of  
13    Civil Procedure for the United States District  
14    Courts, taken before Renee E. Brass, CSR, RPR at  
15    111 South Wacker Drive, 47th Floor, Chicago,  
16    Illinois, on June 13, 2019, at the hour of  
17    10:15 a.m.

18  
19  
20  
21  
22  
23  
24

1 PRESENT:

2 STEPHAN ZOURAS, LLP  
3 BY: MR. ANDREW C. FICZKO  
4 aficzko@stephanzouras.com  
5 100 North Riverside, Suite 2150  
6 Chicago, IL 60606  
7 312.233.1550

8 on behalf of the Plaintiffs;

9 SHOOK, HARDY & BACON, LLP  
10 BY: MR. MATTHEW C. WOLFE  
11 mwolfe@shb.com  
12 111 South Wacker Drive, 47th Floor  
13 Chicago, IL 60606  
14 312.704.7700

15 on behalf of the Defendant.

16 ALSO PRESENT:

17 David Dominiak, videographer

18

19

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21

22

23 Reported by: Renee E. Brass, CSR, RPR  
24 CSR No. 084-004119 - Expiration Date: May 31, 2021.

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30

1 A. Yeah.

2 Q. Okay. Let's -- let's back up, because I  
3 think my questions weren't very good.

4 So the first six pages --

5 A. Okay.

6 Q. -- are typed up, and at the end they're  
7 signed by, I think, Mr. Ficzko.

8 Do you know who prepared these written  
9 responses?

10 A. Yes.

11 Q. Who?

12 A. Andy.

13 Q. Okay. Have you met Andy before today?

14 A. Yes.

15 Q. How many times?

16 A. Maybe a dozen times.

17 Q. Okay. Has he represented you in any  
18 case besides this case?

19 A. No.

20 Q. So not like in an employment case or  
21 wage and hour case or anything like that?

22 A. No.

23 Q. Just this case about time clocks?

24 A. Yes.

1 Q. Anything that you thought was based on a  
2 fingerprint?

3 A. No.

4 Q. You don't have any technical knowledge  
5 of how the time clock actually works, right?

6 A. Technical?

7 Q. Yeah.

8 A. No.

9 Q. We've talked -- let's go back to  
10 Exhibit 1 for a minute, and I want to look at that  
11 picture of the clock again.

12 We talked about how the clock worked  
13 from your perspective and how you clock in and out  
14 and how you enrolled employees.

15 Is there any other feature of the clock  
16 that you used that we haven't covered already?  
17 Talking about the clock itself now.

18 A. Not that I used.

19 Q. Is there any other feature of the clock  
20 that you are aware of that you --

21 A. That other employees would try and have  
22 to use.

23 Q. Like -- okay. Tell me about those.

24 A. Two symbols on the bottom.

1 Q. But you did not take them?

2 A. No.

3 Q. Okay. Besides the break feature, are  
4 there any other features on the clock that you are  
5 aware of that anyone at Speedway, you or the people  
6 you supervised or anybody else would have used?

7 A. No.

8 Q. Okay. What are you -- what are you  
9 suing for in this case?

10 A. I am suing for Speedway and Marathon to  
11 abide by the law.

12 Q. And the law that you want Speedway and  
13 Marathon to abide by is the BIPA law?

14 A. Correct.

15 Q. You worked for Speedway, right?

16 A. Correct.

17 Q. Why did you sue Marathon Petroleum  
18 Company?

19 MR. FICZKO: Objection, seeks a legal  
20 conclusion.

21 BY MR. WOLFE:

22 Q. You can answer.

23 A. Marathon owns Speedway.

24 Q. So your understanding is Marathon

1 say anything outside of what you and Mr. Ficzeko  
2 talked about?

3 A. No.

4 Q. Okay. I'll withdraw it.

5 MR. WOLFE: This will be 4, Andy.

6 (Exhibit 4 marked for  
7 identification.)

8 BY MR. WOLFE:

9 Q. Mr. Howe, this is Exhibit 4. It's the  
10 class action complaint filed in this case.

11 Do you remember, did you review the  
12 complaint before it was filed?

13 A. No.

14 Q. Do you know if any information provided  
15 by you to your lawyers was used in preparing the  
16 complaint?

17 A. I don't know. I'd have to look it over.

18 Q. Have you ever seen it before?

19 A. No.

20 Q. What are you looking to receive from the  
21 lawsuit?

22 A. That laws are abided by for the safety  
23 of myself, the class, anyone else.

24 Q. Are you seeking money damages?

1 A. After -- yes.

2 Q. How much are you looking for?

3 A. After doing some research and Googling  
4 things and looking, my understanding it could be  
5 anywhere from 1,000 to maybe 5,000.

6 Q. Would you take \$1,000 to settle the  
7 case?

8 A. I don't know.

9 Q. Would you take \$5,000?

10 A. I don't know.

11 Q. You were paid a salary when you were a  
12 GM at Speedway, correct?

13 A. Correct.

14 Q. Do you think Speedway should have paid  
15 you more in exchange for having you put your finger  
16 on the time clock every day?

17 MR. FICZKO: Objection, seeks a legal  
18 conclusion.

19 THE WITNESS: No.

20 BY MR. WOLFE:

21 Q. Is it your position that Speedway didn't  
22 disclose to you that the time clock was relying on  
23 scanning your finger to track your hours?

24 A. I'm sorry?



1 have, you know, taken away the need for you to file  
2 the lawsuit?

3 MR. FICZKO: Objection, seeks a legal  
4 conclusion.

5 THE WITNESS: Yes.

6 BY MR. WOLFE:

7 Q. What do you think Speedway should have  
8 done differently?

9 A. Told me what they were doing with my  
10 personal information.

11 Q. So that's -- I'm going to -- taking that  
12 assumption, okay, let's say that Speedway should  
13 have told you what they were doing with your  
14 personal -- with your personal information. Would  
15 you have then done something differently?

16 MR. FICZKO: Objection, hypothetical.

17 THE WITNESS: If they would have told  
18 me?

19 BY MR. WOLFE:

20 Q. Yeah.

21 A. No.

22 Q. You wouldn't have quit?

23 A. No.

24 Q. You wouldn't have asked for more money?

1 A. No.

2 Q. You wouldn't have protested the use of  
3 those clocks?

4 A. No.

5 Q. When did you realize that you had been  
6 harmed by putting your finger on the clocks?

7 A. After doing some research.

8 Q. Tell me about the research.

9 A. Just Googling.

10 Q. Was that your idea?

11 A. Yes.

12 Q. So you were -- you were curious about  
13 these time clocks and how they worked?

14 A. Yes.

15 Q. Was there something specific that caused  
16 you to do the Google research about the law and the  
17 clocks?

18 A. After talking to my attorney.

19 Q. Is that Mr. Ficzko?

20 A. Yes.

21 Q. How do you know Mr. Ficzko?

22 A. Googling and looking for an attorney and  
23 hired him.

24 Q. So when you were looking for a lawyer,

1 A. Yes.

2 Q. So how did they keep track of your time?

3 A. Maybe it -- maybe it was good faith  
4 then, back then. I'm not -- I'm not -- maybe it  
5 was -- maybe we had a paper one. I -- you're --

6 Q. Long time ago I know.

7 A. -- you're talking 1995. I don't know.

8 Q. But it wasn't a finger scan?

9 A. No, sir.

10 Q. Have you ever worked anywhere besides  
11 Speedway that had a finger scan time clock?

12 A. No, sir.

13 Q. Ms. Wagner works at 7-Eleven now?

14 A. Yes.

15 Q. Do they use a finger scan time clock?

16 A. I don't know.

17 Q. You -- you understand you are the class  
18 representative in this case, right?

19 A. Correct.

20 Q. What does that mean to you?

21 A. That I'm responsible for the actions of  
22 the class. I'm looking out for their best  
23 interest.

24 Q. And you are aware that you're seeking

1 damages on behalf of all of these other class  
2 members, might be thousands of people?

3 A. Correct.

4 Q. Are their damages the same as yours?

5 MR. FICZKO: Objection, seeks a legal  
6 conclusion.

7 THE WITNESS: Yes.

8 BY MR. WOLFE:

9 Q. And is that because the people in the  
10 proposed class all used the clock in the same  
11 manner you did?

12 A. Yes.

13 MR. FICZKO: Same objection. Sorry.

14 BY MR. WOLFE:

15 Q. When you applied to work at Speedway,  
16 did you have to provide your Social Security  
17 number?

18 A. Yes.

19 Q. Your birthday?

20 A. Yes.

21 Q. Your address?

22 A. Yes.

23 Q. To get paid by Speedway, you had to give  
24 them your bank information, right?

1 BY MR. WOLFE:

2 Q. Yeah. Who would be in the class? If  
3 the -- you know, the Court hasn't certified the  
4 class, but...

5 A. Myself.

6 Q. Uh-huh.

7 A. And every employee up until they  
8 released that paper.

9 Q. Up until they put a policy in place?

10 A. Correct.

11 Q. And when you say "they," you mean  
12 Speedway?

13 A. Speedway and Marathon.

14 Q. Okay. Do you know -- and your position  
15 is that Speedway -- Marathon is being sued because  
16 Marathon owns Speedway?

17 MR. FICZKO: Objection, seeks a legal  
18 conclusion.

19 THE WITNESS: Yes.

20 BY MR. WOLFE:

21 Q. Now, the class -- the class definition  
22 in the complaint, it says: All individuals who  
23 worked for defendants in the State of Illinois who  
24 had their fingerprints collected, captured,

1 Q. What are your expectations?

2 A. Just looking on Google and seeing what  
3 it says. It could range from -- you know, what it  
4 will range.

5 Q. What's the range you saw on Google?

6 A. I think it was anywhere from, like, I  
7 think 5,000 to 10,000 I think it said or something  
8 like that.

9 Q. Did you do that research yourself?

10 A. Yes.

11 Q. Did anybody else tell you you should --

12 A. No.

13 Q. -- look at it? Did you do that before  
14 or after you hired Mr. Ficzko?

15 A. After.

16 Q. Before or after the lawsuit was filed?

17 A. After.

18 Q. If this case was being settled, you  
19 would want to know about that, right?

20 A. Yes.

21 Q. And you would expect to have input in  
22 the settlement?

23 A. I'm sorry?

24 Q. You would expect to have input into the

1 settlement?

2 A. Yes.

3 Q. Me too.

4 So we talked about Kronos earlier. Do  
5 you know that Kronos bought TimeLink?

6 A. No.

7 Q. So I'm just going to represent to you  
8 that Kronos acquired TimeLink and so TimeLink is  
9 Kronos for purposes of this. Okay?

10 A. Okay.

11 Q. Do you know that there are lawsuits  
12 pending just Kronos as a clock manufacturer?

13 A. No.

14 Q. Do you know that those lawsuits seek to  
15 certify a class of everybody who used a Kronos time  
16 clock in Illinois?

17 A. I'm sorry?

18 Q. Those lawsuits seek to certify a class  
19 of everybody who used a Kronos time clock in  
20 Illinois.

21 A. Did I know that?

22 Q. Yeah.

23 A. No.

24 Q. Did you know that you could be a member